

REMARKS

Claims 1 to 3 are under consideration in this application. Claims 4 to 7 have been withdrawn from consideration due to the restriction requirement.

§102/§103

In the Office Action mailed June 4, 2008, claims 1 to 3 were rejected under 35 U.S.C. §102(b) as being anticipated by Japan No. 2000-290730 to Suzuki et al.

Claims 3 was rejected in the Office Action mailed June 4, 2008 as being unpatentable over Japan No. 2000-290730 to Suzuki et al. in view of Japan No. 2003-055751 to Fujita et al. (incorrectly identified in the Office Action mailed June 4, 2008 as Japan No. 2000-005751).

These rejections are respectfully traversed.

Rule 132 Declaration

In response to these rejections, attached hereto is a Declaration Under 37 C.F.R. §1.132 executed by Dr. Koki Tanaka (hereinafter the "Tanaka Declaration"). Dr. Tanaka is a coinventor of the invention(s) disclosed and claimed in the above-identified patent application.

In the attached Tanaka Declaration, Dr. Tanaka addresses the rejections of the claims over Japan No. 2000-290730 and Japan No. 200-055751. In the attached Tanaka Declaration, test data is present to show that the claimed product of claims 1 to 3 are patentably distinct over the prior art.

The Advisory Action mailed November 11, 2008 suggested at page 2 in Continuation of 11 that the data and attachment of the Response To Final Rejection filed October 6, 2008 (Certificate of Mailing dated October 3, 2008) be placed in a Rule 132 Declaration.

It is submitted that in view of the attached Tanaka Declaration, independent claim 1, and claims 2 and 3 dependent thereon, are patentable over Japan No. 2000-290730 standing alone or in combination with Japan No. 2003-055751.

Rejoinder


If independent product claim 1 is found allowable, it is respectfully requested that withdrawal dependent process claims 4 to 7 be rejoined to the application. Process claims 4 to 7 depend directly or indirectly from independent product claim 1.

CONCLUSION

It is submitted that in view of the Tanaka Declaration, the claims are now in condition for allowance. It is therefore respectfully requested that the application be allowed and passed to issue.

Respectfully submitted,

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Dated: April 6, 2009

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